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12/9/09

RESOLUTION NO. 1215

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, TERMINATING A 1997 INTERLOCAL AGREEMENT AND ACKNOWLEDGING EXPIRATION OF A 1999 INTERLOCAL AGREEMENT.

WHEREAS, on March 25, 1997, the City of Edmonds and Edmonds School District No. 15 entered into an interlocal agreement regarding repair, maintenance and the scheduling of play fields at Madrona School and Old Woodway Elementary requiring the City to provide seasonal maintenance and scheduling in exchange for access to the fields "for the use of its citizens and its softball programs for the period specified herein", and,

WHEREAS, the 1997 ILA had an indefinite term and could be terminated by either party upon sixty days notice, and

WHEREAS, on June 6, 2006, the school district passed Resolution No. 06-14 which declared the Old Woodway Elementary site to be surplus property and authorized the sale of the property, and

WHEREAS, on June 22, 1999, the City of Edmonds, Edmonds School District No. 15 and Snohomish County entered into an ILA (1999 ILA) regarding capital improvements at the Old Woodway Elementary site, AND

WHEREAS, the 1999 ILA was to "remain in effect for ten (10) years" and has expired on its terms, and

WHEREAS, the Growth Management Hearings Board has remanded the 2008 Parks Plan to the City of Edmonds to obtain the recommendation of its hearing examiner

regarding the termination and expiration of these ILAs under the premise that they are within the provisions of the Comprehensive Plan, page 2 Effective Plan, Section B, which requires the recommendation and report to the City Council regarding the abandonment, construction or authorization of any park, and

WHEREAS, the City hearing examiner has provided her advisory report to the City Council, a copy of which is attached hereto as Exhibit A, finding consistency with the Comprehensive Plan and the termination and expiration of the 1997 and 1999 ILAs respectively, now, therefore,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON,
HEREBY RESOLVES AS FOLLOWS:

Section 1. The Edmonds City Council hereby acknowledges the expiration of the 1999 ILA, accepts the termination of the 1997 ILA by the School District's Resolution No. 06-14 and, approves such termination by its approval of the 2008 Comprehensive Parks Plan by contemporaneous action.

RESOLVED this 15th day of December, 2009.

APPROVED:



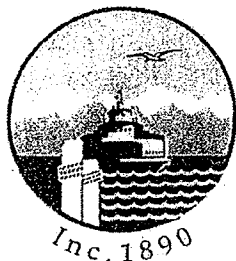
MAYOR, GARY HAAKENSEN

ATTEST/AUTHENTICATED:



CITY CLERK, SANDRA S. CHASE

FILED WITH THE CITY CLERK: 12-11-09
PASSED BY THE CITY COUNCIL: 12-15-09
RESOLUTION NO. 1215



CITY OF EDMONDS

121 5TH AVENUE NORTH • Edmonds, WA 98020 • (425) 771-0220 • FAX (425) 771-0221
HEARING EXAMINER

GARY HAAKENSON
MAYOR

In the Matter of the Application of)	NO. STF20090024
)	
City of Edmonds)	ADVISORY REPORT
)	TO CITY COUNCIL
For Advisory Report per Comprehensive)	
Plan, Effect of Plan, Section B Regarding)	
Termination of an Interlocal Agreement for)	
Maintenance of Playfields.)	

SUMMARY OF PROCEDURE

Request:

The City of Edmonds requested the following, per the project description contained in the notice of hearing issued November 4, 2009:

Hearing Examiner review and recommendation regarding termination of an Interlocal Agreement between the City of Edmonds, the Edmonds School District and Snohomish County to maintain playfields at a location formerly known as Old Woodway Elementary School which is west of and adjacent to Hickman Park¹ pursuant to the requirements of the Edmonds Comprehensive Plan, Effect of Plan, section B.

City Exhibit 14. At the hearing, the City Attorney clarified that the City Council action required to abandon the playfields is (1) termination of a 1997 Interlocal Agreement between the City of Edmonds and Edmonds School District and (2) acknowledgment of expiration of a 1999 Interlocal Agreement between the City of Edmonds, Edmonds School District and Snohomish County.² *Argument of Ms. Zana.*

Jurisdiction:

The Hearing Examiner's jurisdiction in this matter is based on the 2008 City of Edmonds Comprehensive Plan. Page 2 of the Comprehensive Plan, under the heading Effect of Plan, section B, states in relevant part as follows:

No ... park ... shall be abandoned, constructed or authorized until the Hearing Examiner has reviewed and reported to the City Council on the location, extent, and consistency

¹ This land is also known as and referred to in some of the exhibits as Sherwood Park.

² Based on the exhibits presented at the hearing, the Hearing Examiner concurs with the City Attorney's characterization of the issue. It should be noted that Ms. Lora Petso argued that the 1999 Interlocal Agreement is still effective.

with the Comprehensive Plan. The Hearing Examiner's report shall be advisory only. Notice of the hearing by the Hearing Examiner shall be given in the manner specified in each case by the City Council.

Based on the grant of jurisdiction contained in the Comprehensive Plan, the Hearing Examiner will report to City Council on the location and extent of the playfields, and whether terminating/acknowledging expiration of the interlocal agreements to maintain the playfields would be consistent with the Comprehensive Plan, but will not provide a recommendation to City Council as to whether any interlocal agreement should be terminated.

Notice/Objections to Notice:

On October 6, 2009, City Council passed Resolution No. 1209, which established public notice requirements for the hearing before the Hearing Examiner. In the Resolution, City Council characterized the hearing as "regarding the termination of an interlocal agreement relating to the maintenance of playfields at a site formerly owned by the Edmonds School District and adjacent to Hickman Park." The required notice included publication in the City's legal newspaper, placing the notice on the City's web site, posting the adjacent park site, and providing notice on the City notice boards at least ten calendar days before the hearing. *Resolution No. 1209.*

The City issued notice of the Hearing Examiner hearing on November 4, 2009. The notice described the purpose of the hearing as follows:

Hearing Examiner review and recommendation regarding termination of an Interlocal Agreement between the City of Edmonds, the Edmonds School District and Snohomish County to maintain playfields at a location formerly known as Old Woodway Elementary School which is west and adjacent to Hickman Park pursuant to the requirements of the Edmonds Comprehensive Plan, Effect of Plan, section B.

City Exhibit 14. The notice was published in Everett Herald on November 4, 2009, mailed to properties within 300 feet of the site (this type of notice was not required by Resolution No. 1209), placed on the City's web site and on three City bulletin boards, and posted at the site. Consistent with Resolution No. 1209, the notice was provided more than ten days prior to the hearing. *City Exhibit 14, Testimony of Mr. McIntosh.*

Ms. Lora Petso argued that the notice of hearing was inaccurate and deceptive because it described a hearing on the interlocal agreement rather than the abandonment of Sherwood Park. She requested that the Hearing Examiner delay issuance of the advisory report pending another hearing. *Testimony of Ms. Petso; Petso Written Testimony.*

The Hearing Examiner conducted the hearing and is issuing this Advisory Report over the notice objection. The Hearing Examiner notes that the project description contained in the notice of hearing is generally consistent with the description contained in City Resolution No. 1209, which established the notice procedures. Further, the hearing was ordered by the Central Puget Sound Growth Management Hearings Board, which, in its *Final Decision and Order*, suggested that the City hold the required hearing "at the time if votes on termination of the ILA or acknowledges its expiration." *City Exhibit 2, page 35.*

It is the Hearing Examiner's opinion, based on the evidence presented and described in the Findings that follow, that the notice was adequate even though it did not refer to abandonment of a park (other than the citation to the relevant Comprehensive Plan policy). The "park" status of the playfields is based on the interlocal agreements with the former property owner, Edmonds School District. The land is now privately owned and is not open to public use.

Hearing Date:

The City of Edmonds Hearing Examiner conducted a hearing on the request on November 19, 2009.

Testimony:

The following individuals testified at the November 19, 2009 hearing:

1. Elana Zana, Ogden Murphy Wallace (City Attorney)
2. Brian McIntosh, City of Edmonds Parks, Recreation and Cultural Services Director
3. Ira Shelton
4. Evelyn Wellington
5. Lora Petso
6. Roger Hertrich

Exhibits:

City Exhibits:

Staff Report, with the following attached Exhibits:

1. Page 2 of Comprehensive Plan (Effect of Plan)
2. *Final Decision and Order* dated August 17, 2009, Central Puget Sound Growth Management Hearings Board, Case No. 09-3-0005, Petso II v. City of Edmonds
3. References in the 2001 Parks, Recreation and Open Space Comprehensive Plan (hereafter "2001 Parks Plan") related to Old Woodway Elementary School site, with excerpts from the plan
4. Interlocal Agreement between the City of Edmonds and Edmonds School District No. 15 dated March 25, 1997
5. Interlocal Agreement between Snohomish County, City of Edmonds, and Edmonds School District No. 15 dated June 22, 1999.
6. Edmonds School District Resolution No. 06-14
7. Notice of Intent to Sell Surplus School Property published April 15, 2006
8. Edmonds City Council Minutes dated March 25, 2006
9. Interlocal Agreement between Snohomish County and City of Edmonds dated December 18, 2006
10. Snohomish County Council Motion No. 06-546, and Interlocal Agreement between Snohomish County, City of Edmonds, and Edmonds School District No. 15 for Termination of Previously Executed Interlocal Agreement
11. Edmonds City Council Minutes dated March 20, 2007
12. December 2008 Parks, Recreation and Open Space Comprehensive Plan (hereafter, "2008 Parks Plan")

13. Development/Operation Agreement Meadowdale Playfield Site dated June 5, 1985
14. City's notice documentation, including Notice of Hearing Examiner Hearing, and Hearing Examiner Agenda posted on City web site.

Exhibits submitted by Lora Petso:

Written testimony entitled "Park Abandonment Hearing" dated November 19, 2009, with the following attached Exhibits:

1. Sno-King Fall 2006 Soccer Field Locations
2. Figure 4.11 from Southwest Drainage Basin Plan
3. Letter from D.C. Miller to Tom Rosenbough dated July 7, 1983
4. Excerpts from Southwest Drainage Basin Plan, including pages 2-2, 4-4, 4-9, 4-10, 4-11, 4-12, and 4-13
5. Materials (2 pages) from Burnstead development application referencing Fish and Wildlife Habitat Conservation Area
6. Excerpts from City Critical Areas Map showing Fish and Wildlife Habitat Conservation Area
7. Excerpt from Comprehensive Park Plan Map dated 1967
8. 1993 Earling letter and 2004 Plunkett article (Edmonds Beacon)
9. Letter from Arvilla Ohlde to Edmonds City Council dated March 24, 2006
10. Excerpts from City Council Minutes dated March 21, 2006, March 25, 2006, and June 7, 2005
11. City Executive Session Minutes dated April 11, 2006
12. Memo from Brian McIntosh to Snohomish County requesting ILA termination dated August 2, 2006
13. Documents relating to Edmonds School District request to amend Comprehensive Plan, including letter from Marla Miller dated July 16, 2005, Ms. Petso's written comments, and notification of withdrawal of application.
14. Excerpts from Comprehensive Plan, including pages 1, 2, 3, 5, 15, 22, 61, 62, 65, 66, 67, and 88
15. Excerpts from 2001 Parks Plan, including pages 2-5, 3-7, 5-1, 4-27, 4-25, 4-24, 4-23, 4-22, 4-21, 4-20, 4-4, Facilities Plan Map, and Needs Assessment pages 29, 33, and 36
16. 1997 and 1999 Interlocal Agreements, with documents relating to School District sale of land to Burnstead Construction
17. Page 4-11 of 2008 Parks Plan
18. Petso PRD appeal
19. Park aerial maps
20. Capital Improvement Project Description for Sportsfield/Playground Upgrade

In addition to these Exhibits, the Hearing Examiner considered the 2001 Parks, Recreation & Open Space Comprehensive Plan in its entirety (only excerpts were included in the above Exhibits), the 2008 City of Edmonds Comprehensive Plan, and City Resolution No. 1209.

SUMMARY OF TESTIMONY

This summary should not be considered minutes of the hearing. Only the key points made by the participants are summarized here.

Brian McIntosh: Mr. McIntosh described the notice that was provided of the hearing, and provided information on the acreage of the Old Woodway Elementary site and the extent of the playfields.

Elana Zana: Ms. Zana summarized the relevant interlocal agreements and the status of each. She clarified that the action required to abandon the playfields is (1) termination of a 1997 Interlocal Agreement between the City of Edmonds and Edmonds School District and (2) acknowledgment of expiration of a 1999 Interlocal Agreement between the City of Edmonds, Edmonds School District and Snohomish County.

Ira Shelton: Mr. Shelton questioned the recreational value of the amenities provided at Hickman Park (picnic area, a field without defined borders). He argued that general open fields are not adequate for youth recreation needs, and that the City should provide fields designed for specific sports.

Evelyn Wellington: Ms. Wellington questioned how any of the interlocal agreements could terminate automatically, and argued that the City needs the fields located on the subject property. Ms. Wellington supported Ms. Petso's arguments.

Lora Petso: Ms. Petso argued that neither the 1997 nor the 1999 ILAs have been terminated or have expired. In addition, she objected to the public notice of the Hearing Examiner hearing because it referred to termination of an interlocal agreement but not to the abandonment of playfields. Ms. Petso submitted written argument, with attached exhibits, which she summarized at the hearing. The points included:

- A description and photo of the park location.³
- A description of the size and environmental characteristics of the property, and the characteristics of the playfields.
- Argument on consistency with the Comprehensive Plan. Ms. Petso argued that abandonment of the park is inconsistent with the 2001 Parks Plan, which shows a shortage of all park types, and that it had been her intent in adopting the 2001 Parks Plan that the City acquire the entire Old Woodway Elementary site (11 acres). Ms. Petso argued that abandonment of the park is inconsistent with Comprehensive Plan Purposes C and E (page 1), Growth Management Goal B.2 (page 3), State Goals I, J, and L (page 5), the Open Space policies, including B.2, B.2.b, B.2.d, B.2.h (Ms. Petso emphasized B.2.h in her oral testimony), and the Vegetation and Wildlife policies.⁴ Ms. Petso argued that placing homes on the site is not

³ The relevant facts regarding the location and extent of the property are included in the Findings that follow.

⁴ The text of the goals and policies is included in her written testimony and in her attached Exhibit 14.

consistent with the balance of land uses required by the Comprehensive Plan. In addition, she argued that abandoning the park would result in abandonment of a drainage ditch identified in the Southwest Edmonds Drainage Basin Study, and that abandonment of the ditch would result in flooding impacts to the surrounding neighborhood.

- A response to City arguments. Ms. Petso argued that the fact that the City acquired and developed Hickman Park is not relevant to the issue of whether abandonment of the playfields is consistent with the Comprehensive Plan. She argued that Hickman Park does not contribute to the City's inventory of fields for adult and upper age youth play because the field is too small, provides only a partial backstop, and is encumbered by a cherry tree.

Roger Hertrich: Mr. Hertrich questioned whether the hearing was for termination of an Interlocal Agreement or for abandonment of a park,⁵ and argued that both actions are inconsistent with the Comprehensive Plan. He submitted that the City has argued that it is too built out to acquire new parks, yet new development is occurring without creation of new parks.

FINDINGS

Location and Extent of Property

1. The subject property is located in southwest Edmonds, immediately south and west of Hickman Park.⁶ The tax parcel number of the subject property is 27033600304800. *Petso Written Testimony, page 2; City Exhibit 14.*
2. The subject property and the land comprising Hickman Park were formerly owned by Edmonds School District and were known as Old Woodway Elementary School. The total property area was 11.22 acres. The 2001 Parks Plan identified the school site and indicated that it provided 4.8 acres of recreation facilities. Although not identified as such in the 2001 Parks Plan, the recreation facilities on the subject property were known as Sherwood Park. *City Exhibit 3 (2001 Parks Plan, page 3-8 and Existing Park & Recreation Areas Map, page 3-11); City Exhibit 6; Petso Written Testimony, page 3 and Exhibit 1.*
3. In 2006, The School District sold approximately 5.6 acres of the Old Woodway Elementary site to the City of Edmonds, which later developed the land into Hickman Park, and the remaining 5.6 acres (the subject property) to a private party, Burnstead Construction. *Staff Report, page 3; City Exhibit 2, page 29; City Exhibit 8; City Exhibit 12, Appendix C, Old Woodway Elementary Park description; Petso Exhibit 16.*

⁵ Ms. Zana submitted in response to this issue that while the hearing itself is a park abandonment hearing, the park abandonment action is termination/acknowledgment of expiration of the ILAs.

⁶ The address of Hickman Park is 23708 104th Avenue West. *City Exhibit 12, Appendix C, Old Woodway Elementary Park.*

4. The subject property contains two playfields, including a softball/baseball field and a soccer field. *Petso Written Testimony, pages 2 and 3.* The fields occupy approximately four acres of the site. *Testimony of Mr. McIntosh.*
5. The subject property contains a drainage ditch that is identified in the City's Southwest Edmonds Drainage Basin Study. The ditch runs along the northern and western boundaries of the site, and accommodates runoff from the surrounding neighborhood. *Petso Written Testimony and Exhibits 2 and 4.*
6. The northeast corner of the subject property is within a Fish and Wildlife Habitat Conservation Area. *Petso Exhibits 5 and 6.*

Interlocal Agreements

7. On March 25, 1997, the City of Edmonds and Edmonds School District No. 15 entered into an interlocal agreement (1997 ILA⁷) regarding repairs, maintenance and scheduling of playfields at Madrona School and Old Woodway Elementary. Under the 1997 ILA, the City assumed responsibility for seasonal maintenance and community scheduling of the fields, and agreed to contribute labor and up to \$5,500 in materials, in exchange for City access to the fields "for the use of its citizens and its softball and soccer programs for the period specified herein." *City Exhibit 4, page 1.* The 1997 ILA had an indefinite term, and could be terminated by either party upon 60 days notice. *City Exhibit 4, page 2.*
8. On June 22, 1999, the City of Edmonds, Edmonds School District No. 15, and Snohomish County entered into an ILA (1999 ILA) regarding capital improvements at the Old Woodway Elementary site. Under the 1999 ILA, the School District agreed to make the premises available to City and County residents; the City agreed to make certain improvements to the baseball field, provide a sign identifying Snohomish County as a financial participant, and guarantee long-term maintenance of the ballfields and improvements; and Snohomish County agreed to provide financial assistance. The 1999 ILA specifies in Section 1.4 that the agreements "shall remain in effect for ten (10) years according to its terms", and provides that it may be terminated "only upon written agreement of the parties, executed in the same manner as provided by law for the execution of this agreement; provided that the County may terminate this agreement based on lack of legislative appropriation." The 1999 ILA acknowledges the 1997 ILA, and provides that both documents should be read to fully effectuate all of their provisions, with the 1999 ILA controlling in the event of irresolvable conflict. *City Exhibit 5.*
9. On June 6, 2006, the School District passed Resolution No. 06-14, which declared the Old Woodway Elementary site (11.22 acres) to be surplus property, and authorized the sale of the property. *City Exhibit 6.*

⁷ In its Staff Report, the City identified the 1997 ILA as simply the "ILA" and the 1999 ILA described in the next Finding as the "Three Party ILA." In this report the Hearing Examiner will refer to the ILAs by date so as not to confuse them with the other ILAs in the record (there are five total).

10. On March 25, 2006, City Council authorized the City to make an offer to purchase 5.5 acres of the Old Woodway Elementary site, and to ask the School District for an extension of time to make an offer to purchase the remaining land. *City Exhibit 8.*
11. On December 18, 2006, the City and Snohomish County entered into an interlocal agreement (2006 ILA) providing for the County's financial assistance in the City's purchase of "all or a part of" the Old Woodway Elementary site. The 2006 ILA does not require that ballfields be provided on the land acquired by the City. *City Exhibit 9; Argument of Ms. Zana.*
12. The City purchased the east 5.6 acres of the Old Woodway Elementary site and developed it into Hickman Park. A private developer (Burnstead Construction) purchased the remainder, which contained the playfields described in the 1997 and 1999 ILAs. *City Staff Report, Petso Exhibit 16; Testimony of Mr. McIntosh.*
13. The City of Edmonds never terminated the 1999 ILA, although an attempt was made in December of 2006 (the Mayor, along with representatives of Snohomish County and the School District, entered into an interlocal agreement to terminate the 1999 ILA, but this action was not ratified by City Council). *City Exhibits 10 and 11.*
14. Although not successfully terminated, the 1999 ILA expired by its own terms in June of 2009. *City Exhibit 5; Argument of Ms. Zana; see also City Exhibit 2, page 29.*
15. The City considers the Council action required to abandon the playfields as (1) terminating the 1997 ILA and (2) acknowledging expiration of the 1999 ILA. *Argument of Ms. Zana; Staff Report, page 5.*

Comprehensive Plan

16. Early this year, Ms. Petso challenged the City's adoption of its 2008 Parks Plan (Ordinance No. 3717) before the Central Puget Sound Growth Management Hearings Board (CPSGMHB). Ms. Petso raised numerous procedural and substantive issues, including issues relating to the playfields on the subject property. In its *Final Decision and Order* dated August 17, 2009, the CPSGMHB dismissed the substantive issues but found that the City did not comply with certain notice requirements when it adopted Ordinance No. 3717, and did not demonstrate consistency with the park abandonment policy (Section B of Effect of Plan on page 2) with respect to the playfields. The CPSGMHB remanded the ordinance to the City to correct the procedural problems, but did not invalidate the 2008 Parks Plan pending the remand. *City Exhibit 2.* The Hearing Examiner will address both the 2001 and the 2008 Parks Plans in these Findings, as well as the 2008 Comprehensive Plan.

2001 Parks Plan

17. The 2001 Parks Plan does not specifically reference any interlocal agreement to maintain the playfields on the subject property, but generally describes how the City partners with schools to provide neighborhood or community park elements. *2001 Parks Plan, page 3-7; Staff Report, page 6.*

18. The 2001 Parks Plan contains maps that identify the Old Woodway Elementary site as being a "School District School" (page 3-11), and identify the site as being within a proposed neighborhood park service area (page 4-5). *City Exhibit 3*. Appendix B to the 2001 Parks Plan includes a detailed playfield inventory, which identifies Old Woodway Elementary as providing one youth baseball/softball field and one soccer field (pages 29, 33, and 36). *Petso Exhibit 15*.
19. The 2001 Parks Plan establishes "recommended demand standards" for various types of park and recreation facilities and provides an analysis of the land and facilities needed to satisfy the standards. These are described throughout Chapter 4 of the 2001 Parks Plan but are summarized in Table 4.14 (page 4-27). Table 4.14 shows a need for all types of park and recreation facilities by the year 2010, including (among other things) 21.2 acres of neighborhood parks, 29.9 acres of community parks, seven baseball fields, and four soccer fields. With respect to existing baseball fields, the 2001 Parks Plan notes that many are considered substandard and do not contain adequate infield conditions and features such as fencing and dugouts. *2001 Parks Plan, pages 4-20 and 4-27 (Petso Exhibit 15)*.
20. The 2001 Parks Plan includes an Action Plan (Chapter 6), which recommended that the City acquire/develop three acres of the Old Woodway Elementary site as a neighborhood park (page 6-6). The neighborhood park site selection criteria identified a minimum land area of two acres, and an optimum land area of four to seven acres (page 6-4). *City Exhibit 3*. With respect to baseball fields, the recommended action was that the City upgrade existing multi-use fields, convert surplus softball fields to youth baseball, and place portable toilets on site during baseball season. *2001 Parks Plan, page 6-18*.
21. The 2001 Parks Plan includes goals and objectives relating to parks and open space (Chapter 5). These goals and objectives are nearly identical to those contained in the 2008 Parks Plan. The goals include providing a wide range of park and recreation services for all interests and age groups, and providing a high quality park system that offers a wide variety of recreation opportunities (page 5-1). The relevant objectives include developing a neighborhood park system that is conveniently located to most City residents, developing high quality improvements for parks, upgrading existing parks, developing a program to upgrade sports fields on school playgrounds, and continuing to work with adjoining cities to provide sports fields (pages 5-1 to 5-2). *2001 Parks Plan, Chapter 5; Petso Exhibit 15*.
22. *2008 Parks Plan*
The 2008 Parks Plan does not identify the subject property as a park, but identifies the remainder of the Old Woodway Elementary site as City parkland, and as a proposed neighborhood park (Existing Plan Map and Proposed Plan – Facilities Map; see also page 4-3). *City Exhibit 12*.
23. The 2008 Parks Plan does not reference either of the ILAs. *Staff Report, page 6; City Exhibit 12*.

24. The 2008 Parks Plan indicates that the City owns or controls six park-centered sports fields and shares facilities at the Meadowdale Athletic Complex, but notes that the City fields do not generally qualify as "regulation" fields because they are irregular in shape. The 2008 Parks Plan indicates that through the public process the community expressed a need for more availability of fields, especially for adults, and that many teams have to drive a long distance for field availability and/or have to play at undesirable times of the day. *City Exhibit 12, page 4-11.*
25. The 2008 Parks Plan does not include demand standards for the various types of athletic fields, but states, "additional fields should be provided as new park sites are considered at both the neighborhood and community park levels." *City Exhibit 12, page 4-12.*
26. The 2008 Parks Plan contains goals and objectives that are nearly identical to those contained in the 2001 Parks Plan and described above. *City Exhibit 12, page 5-2.*
27. The 2008 Parks Plan contains an Action Plan that includes recommendations that the City develop the 5.6-acre park (Hickman Park) at the Old Woodway Elementary site and develop a multi-purpose active community park at the former Woodway High School site, which is adjacent to Hickman Park. With respect to sports fields, the Action Plan identifies a need for one regulation baseball field, three youth baseball/softball fields, one regulation soccer field, and three youth soccer fields. For all of the fields, the Action Plan recommends that they be developed as part of new or redeveloped community parks and/or through partnerships and improvements at school sites. *City Exhibit 12, page 6-16.*
28. The Proposed Facilities chart within the action plan shows Old Woodway Elementary Park (Hickman Park) as providing one youth soccer field⁸ and other amenities, and identifies a potential new community park at former Woodway High School containing three adult soccer fields and one adult baseball field and other amenities.⁹ The 2008 Capital Improvements Program notes that development of the community park would depend on a successful capital campaign. *City Exhibit 12, page 6-19; 2008 Comprehensive Plan, page 92 (CIP).*
29. Since 1985, there has been an interlocal agreement in place (1985 ILA) allowing City use of the Meadowdale playfields (27 acres), which are located within the City of Lynnwood adjacent to the Edmonds city limits. The parties to the 1985 ILA are the Cities of Lynnwood and Edmonds, Snohomish County, and Edmonds School District No. 15. According to the park description contained in the 2008 Parks Plan, the park provides three lighted softball fields, two sand soccer fields, and other amenities. The 1985 ILA

⁸ At the hearing, witnesses questioned the usability of the field for soccer or any other organized sport. The field is open, with no defined boundaries. It includes a partial backstop, but hardball is not allowed. *Petso Written Testimony, page 11; Testimony of Mr. Shelton.*

⁹ Based on the field inventory contained in Appendix B to the 2001 Parks Plan, the improvements at former Woodway High School, if constructed, would result in two additional soccer fields. *2001 Comprehensive Plan, Appendix B, pages 29 and 36.*

has a 40-year term unless terminated by a majority vote of the parties, terminated by the School District with 180 days notice and compensation to the other parties, or mutually amended by the parties. The City of Edmonds may unilaterally withdraw from the interlocal agreement with 180 days notice. *City Exhibit 13.*

2008 Comprehensive Plan

30. The 2008 Comprehensive Plan contains a growth management policy that the "Comprehensive Plan and its implementation measures should be developed and maintained in such a manner to guarantee that there are sufficient resources to insure established levels of community services and that ample provisions are made for necessary open space, parks and other recreation facilities." *2008 Comprehensive Plan, page 3, Policy B.2 (Petso Exhibit 14).*
31. The 2008 Comprehensive Plan contains state goals to "encourage the retention of open space and development of recreational opportunities ... and develop parks" (Goal I), "protect the environment" (Goal J), and "ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards" (Goal L). *2008 Comprehensive Plan, page 5 (Petso Exhibit 14).*
32. The 2008 Comprehensive Plan contains an open space policy to use "all feasible means" to preserve certain types of open spaces, including "areas which have an abundance of wildlife particularly where there are habitats of rare or endangered species", "areas which have steep slopes or are in major stream drainage ways", and "lands which would have unique suitability for future recreational uses both passive and active." *2008 Comprehensive Plan, page 62, Policy B.2 (Petso Exhibit 14).*
33. The 2008 Comprehensive Plan contains a goal to "continue to upgrade the public storm drainage system", and, in the management of storm drainage, to "utilize the natural drainage system where it is possible to do so without significantly altering the natural drainage ways" *2008 Comprehensive Plan, page 65, Goal B (Petso Exhibit 14).*
34. The 2008 Comprehensive Plan acknowledges that as Edmonds has urbanized, the natural vegetation has become increasingly scarce, and includes as a goal that the City ensure that its woodlands, marshes and other areas containing natural vegetation are preserved. *2008 Comprehensive Plan, page 66 (Petso Exhibit 14).*
35. The Capital Facilities Element of the 2008 Comprehensive Plan does not include a project that is specific to the playfields on the subject property. Instead, it includes a general Sportsfield/Playground Upgrade project, which is described as "Partnerships with Edmonds School District, City of Lynnwood/MAC fields and private youth activities associations to create additional youth ball field and play facilities, playgrounds and neighborhood parks at school facilities." *Petso Exhibit 20; see also 2008 Comprehensive Plan, CIP.* The photo accompanying the project description is of the baseball field on the subject property, but none of the text refers to the subject property. *Petso Exhibit 20.*

36. The Comprehensive Plan Map dated December 16, 2008 shows the designation of the Old Woodway Elementary School site (including the subject property) as being Single Family – Urban 1.¹⁰
37. In its *Final Decision and Order*, the CPSGMHB made several substantive rulings that are relevant to this Advisory Report, including the following:
- The 2008 Parks Plan is *not inconsistent* with the GMA, the General Comprehensive Plan and the Capital Facilities Plan, or internally inconsistent because it does not reference the ILAs or the Sherwood Park playfields. “Whatever remaining effect the ILA may or may not have, the Board finds that the City appropriately amended its Parks Plan to reflect the actions the three ILA parties and the new private owner have taken. The City is not required to include the ILA in its updated Parks Plan. Nor is it required to purchase the whole property to meet its identified need for youth and adult sports fields.” *City Exhibit 2, page 29 (see pages 26 and 28-30 for full discussion)*.
 - The Parks Plan amendment is *not inconsistent* with the GMA, the General Comprehensive Plan and the Capital Facilities Plan, or internally inconsistent because it does not include planned acquisitions of full-size athletic fields to address the identified need for such fields. “The Board has not found, and Petitioner has not cited, any GMA provision or case law requiring a city or county to serve the specific recreational preferences of its population.... Thus, whether a city provides ball fields or off-leash dog areas, skateboard parks or swimming pools, is within the discretion of the elected officials. ... The City has chosen to address the need for youth and adult playfields through interlocal agreements and partnerships with other agencies. In particular, the City has identified inter-local development of sportsfields at the Old Woodway High School site as its preferred strategy to meet the long term demand for more ball fields.” *City Exhibit 2, pages 31-32 (internal citations omitted) (see pages 26 and 30-32 for full discussion)*.
 - The 2008 Parks Plan does not fail to comply with Goal I, page 5 of the General Plan (see Finding 31 for text) even though it does not include the ILA. *City Exhibit 2, pages 38-40*.
 - The 2008 Parks Plan does not fail to comply with Goal L (page 5) or Policy B.2 (page 3) of the General Plan (see Findings 30 and 31 for text) even though it does not provide for sufficient land acquisitions to achieve

¹⁰ The record for this Advisory Report does not contain any information as to whether the Comprehensive Plan designation has changed since then.

the level of service standards contained in the 2001 Parks Plan. *City Exhibit 2, pages 44-47.*

CONCLUSIONS

1. The location of the property has been identified as described in Finding 1.
2. The extent of the property has been identified as described in Findings 2, 3 and 4.
3. Termination of the 1997 ILA and acknowledgment of expiration of the 1999 ILA (the park abandonment action) would be consistent with the Comprehensive Plan, as detailed below:
 - A. It is the Hearing Examiner's opinion that State Goal J and the drainage and vegetation/wildlife provisions of the 2008 Comprehensive Plan are not relevant to the park abandonment issue. Although the subject property contains drainage ways and critical areas, these features are not addressed in the relevant interlocal agreements, and use of the subject property for something other than playfields would not necessarily mean that these features would be disturbed. Any future use of the site must comply with the Comprehensive Plan as well as the City's drainage and critical area regulations. The City does not need to purchase the land to enforce the relevant regulations. *Findings 5, 6, 31, 33, and 34.*
 - B. Based on the analysis provided by the Central Puget Sound Growth Management Hearings Board, which the Hearing Examiner finds persuasive, the City action would be consistent with Growth Management Policy B.2 and State Goals I and L of the 2008 Comprehensive Plan. Although the Growth Management Hearings Board did not review the ILAs per se, it did review and approve similar City "abandonment" actions with respect to the playfields, including failing to identify the ILAs in the 2008 Parks Plan and failing to purchase (or not planning to purchase) the subject property. The City has elected to develop alternative park facilities in the area, such as Hickman Park. *Findings 12, 27, 28, 30, 31, and 37.*
 - C. Termination of the 1997 ILA and acknowledgement of expiration of the 1999 ILA would be consistent with the 2008 CIP. *Finding 35.*
 - D. Although the subject property is uniquely suitable for future recreational uses per the open space policies of the 2008 Comprehensive Plan, it is not clear that there are any "feasible means" to preserve the land. The land is now privately owned. The City did not purchase the subject property from the School District when presented with the opportunity to do so in 2006 (the City Council meeting minutes submitted into the record suggest that funding was a significant issue), and it is not clear that there are funds to do so at present.¹¹ Further, assuming the land remains under private ownership, it seems improbable that the ILAs (to the extent still effective) could be enforced such as to allow public use of the

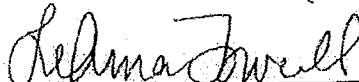
¹¹ No evidence was presented on City finances.

property. However, resolution of that legal issue is outside the scope of this Advisory Report. *Findings 3, 4, 7, 8, 9, 10, 11, and 12.*

- E. Termination of the 1997 ILA and acknowledgement of expiration of the 1999 ILA would be consistent with the 2008 Parks Plan. The 2008 Parks Plan does not identify the subject property as a park site and does not include demand standards or recommended actions that would require City maintenance of the playfields. The 2008 Parks Plan identifies alternative recreation facilities. *Findings 22-29.*
- F. Termination of the 1997 ILA and acknowledgement of expiration of the 1999 ILA would be consistent with the 2001 Parks Plan. The 2001 Parks Plan identifies the subject property only as a school recreation land that provides neighborhood park facilities. The subject property is no longer under school ownership. The Action Plan contained within the 2001 Parks Plan recommended that the City acquire three acres of the Old Woodway Elementary site for development into a neighborhood park, and did not specify which three acres should be acquired. The City eventually purchased 5.6 acres of the Old Woodway Elementary site and developed it into Hickman Park. This action was consistent with the 2001 Parks Plan objective of developing a neighborhood park system that is conveniently located to most City residents. Although the 2001 Parks Plan included level of service standards that showed a need for all types of sports fields, the Central Puget Sound Growth Management Hearings Board has already ruled that the City is not required to acquire the playfields on the subject property. *Findings 17-21 and 37.*

DATED this 4th day of December 2009.

Toweill Rice Taylor LLC
City of Edmonds Hearing Examiners
By:


LeAnna C. Toweill